

REFERENCE TITLE: transportation tax; election; Maricopa county

State of Arizona  
Senate  
Fifty-sixth Legislature  
First Regular Session  
2023

# SB 1122

Introduced by  
Senator Farnsworth: Representative Cook

## AN ACT

AMENDING SECTIONS 28-6301, 28-6302, 28-6303, 28-6305, 28-6306, 28-6308 AND 28-6313, ARIZONA REVISED STATUTES; AMENDING TITLE 28, CHAPTER 17, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 28-6314; AMENDING SECTIONS 28-6352, 28-6713, 28-7362 AND 28-7363, ARIZONA REVISED STATUTES; AMENDING TITLE 42, CHAPTER 6, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING SECTION 42-6105.01; AMENDING SECTIONS 48-5102, 48-5103 AND 48-5121, ARIZONA REVISED STATUTES; RELATING TO TRANSPORTATION PLANNING AND FINANCE.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 28-6301, Arizona Revised Statutes, is amended to  
3 read:

4 28-6301. Definitions

5 In this article, unless the context otherwise requires:

6 1. "~~Bond-related~~ BOND-RELATED expenses" means:

7 (a) Printing, publication or advertising expenses with respect to  
8 the sale and issuance of any bonds.

9 (b) Fees, expenses and costs of registrars, paying agents and  
10 transfer agents retained by the board.

11 (c) Fees, expenses and costs of attorneys, accountants, actuaries,  
12 feasibility consultants, computer programmers or other experts employed to  
13 aid in the sale and issuance of the bonds.

14 (d) Other costs, fees and expenses incurred or reasonably related  
15 to the issuance, sale and administration of the bonds.

16 2. "~~Bond-related~~ BOND-RELATED obligation" means any agreement or  
17 contractual relationship between the board and any bank, trust company,  
18 insurance company, surety bonding company, pension fund or other financial  
19 institution providing increased credit on, or security for, the bonds or  
20 liquidity for secondary market transactions.

21 3. "Bonds" means any bonds that are payable from the regional area  
22 road fund as provided in chapter 21, article 2 of this title.

23 4. "Construction interest" means a company whose primary function  
24 consists of building freeways, highways or major arterial streets.

25 5. "Controlled access highway" has the same meaning prescribed in  
26 section 28-601.

27 6. "Freight interest" means a company that derives a substantial  
28 portion of its revenue from transporting goods.

29 7. "INTERSECTION IMPROVEMENT" MEANS CONSTRUCTION RELATING TO  
30 INTERSECTIONS, INCLUDING CONSTRUCTING, INSTALLING OR UPGRADING TRAFFIC  
31 CONTROL DEVICES, TURN LANES AND APPURTENANCES, TO ENHANCE THE EFFICIENCY  
32 OF MOVEMENT, SAFETY AND CONGESTION RELIEF FOR MOTOR VEHICLES.

33 ~~7.~~ 8. "Major amendment" means either:

34 (a) The addition or deletion of a freeway, route on the state  
35 highway system or a fixed guideway transit system.

36 (b) The addition or deletion of a portion of a freeway, route on  
37 the state highway system or a fixed guideway transit system that either  
38 exceeds one mile in length or exceeds an estimated cost of forty million  
39 dollars as provided in the regional transportation plan.

40 (c) The modification of a transportation project in a manner that  
41 eliminates a connection between freeway facilities or fixed guideway  
42 facilities.

43 9. "MAJOR ARTERIAL" MEANS AN INTERCONNECTED THOROUGHFARE WHOSE  
44 PRIMARY FUNCTION IS TO LINK AREAS IN THE REGION AND TO DISTRIBUTE TRAFFIC  
45 TO AND FROM CONTROLLED ACCESS HIGHWAYS, GENERALLY OF REGIONWIDE

SIGNIFICANCE AND OF VARYING CAPACITY DEPENDING ON THE TRAVEL DEMAND FOR THE SPECIFIC DIRECTION AND ADJACENT LAND USES.

~~8.~~ 10. "Population" means the population determined in the most recent United States decennial census or the most recent special census as provided in section 28-6532 and revisions to the decennial or special census certified by the United States bureau of the census.

~~9.~~ 11. "Public transportation" means moving passengers by means of a conveyance operated by or for a political subdivision of this state, including dial-a-ride transportation, special needs transportation and van pool transportation but excluding school buses.

~~10.~~ 12. "Public transportation system" means the combination of individuals, vehicles, physical facilities, structures and equipment that together provide, or facilitate providing, public transportation, including buses, high occupancy vehicle roadway lanes and ramps, bus pull-out lanes, bus and light rail waiting facilities, park and ride parking lots, intelligent transportation systems and ridesharing promotion.

~~11.~~ 13. "Regionwide business" means a company that provides goods or services throughout the county.

~~12.~~ 14. "Transit interest" means an individual with demonstrated interest and experience with public transportation.

Sec. 2. Section 28-6302, Arizona Revised Statutes, is amended to read:

28-6302. Transportation excise tax distribution; counties with three million or more persons; regional area road fund

A. In a county with a population of ~~one~~ THREE million ~~two hundred thousand~~ or more persons, the officer collecting transportation excise tax monies pursuant to section 42-6105 OR 42-6105.01 that are designated for deposit in the regional area road fund shall immediately transfer the monies to the state treasurer. The state treasurer shall deposit the monies in a fund designated for the county as the regional area road fund. The state treasurer shall hold monies in the regional area road fund as a trustee for the county.

B. Except as provided in this article, the county in which the transportation excise taxes are levied has the beneficial interest in the regional area road fund. This state has no beneficial interest in the regional area road fund except as an obligee for reimbursement of state monies that are advanced as salaries or expenses by this state or the department and that are to be repaid by the regional area road fund.

C. Monies and investments within the regional area road fund may be used and spent only as provided in this chapter. An appropriation of any nature shall not be required before the expenditure of monies from the regional area road fund. Monies in the bond proceeds account or construction account of a regional area road fund may be obligated for

1 payment in future years for the purpose of right-of-way acquisition  
 2 subject to the limitations prescribed in sections 28-7001 and 28-7002, ~~and~~  
 3 section 42-6105, subsection D, paragraphs 1 and 2 **AND SECTION 42-6105.01,**  
 4 **SUBSECTION D, PARAGRAPHS 1 AND 2.** The state treasurer shall make payments  
 5 from the regional area road fund by check, and a warrant or voucher is not  
 6 necessary. Subject to the powers granted to the board in chapter 21,  
 7 article 2 of this title, the director shall administer monies deposited in  
 8 the regional area road fund.

9 Sec. 3. Section 28-6303, Arizona Revised Statutes, is amended to  
 10 read:

11 **28-6303. Regional area road fund; separate accounts**

12 A. The regional area road fund is divided into three separate  
 13 accounts designated as the bond account, the construction account and the  
 14 bond proceeds account.

15 B. The state treasurer shall:

16 1. Account separately for each account.

17 2. Make transfers between accounts only as provided in this article  
 18 or chapter 21, article 2 of this title.

19 3. Before any bonds are issued, deposit transportation excise tax  
 20 revenues transferred to the state treasurer in the construction account.  
 21 These revenues shall be expended as provided in this article.

22 4. After any bonds are issued, deposit transportation excise tax  
 23 revenues transferred to the state treasurer in the bond account first  
 24 until the bond account contains monies sufficient to meet all principal,  
 25 interest or redemption requirements for the current period as required by  
 26 any resolution of the board pertaining to the issuance of bonds.

27 5. After all current period requirements for all of the bonds are  
 28 deposited in the bond account, deposit the balance of transportation  
 29 excise tax revenues transferred to the state treasurer for the current  
 30 period in the construction account.

31 C. The state treasurer may:

32 1. Invest monies in any account of the regional area road fund in  
 33 any securities or obligations authorized by title 35, chapter 2,  
 34 article 2.

35 2. For the purpose of investments, commingle monies within the  
 36 regional area road fund with state monies if all interest earned on the  
 37 monies in the regional area road fund of a county is credited to the  
 38 respective account of the regional area road fund in which the investment  
 39 was made.

40 D. The department shall separately account for the uses of  
 41 transportation excise tax revenues deposited into the bond account and the  
 42 construction account in order to identify how the transportation excise  
 43 tax revenues are used pursuant to section 42-6105, subsection D,  
 44 paragraphs 1 and 2, for:

45 1. Freeways and other routes in the state highway system.

2. Major arterial streets and intersection improvements, INCLUDING CAPITAL EXPENSE AND IMPLEMENTATION STUDIES.

E. THE DEPARTMENT SHALL SEPARATELY ACCOUNT FOR THE USES OF TRANSPORTATION EXCISE TAX REVENUES DEPOSITED IN THE BOND ACCOUNT AND THE CONSTRUCTION ACCOUNT IN ORDER TO IDENTIFY HOW THE TRANSPORTATION EXCISE TAX REVENUES ARE USED PURSUANT TO SECTION 42-6105.01, SUBSECTION D, PARAGRAPHS 1, 2 AND 3 FOR:

1. FREEWAYS AND OTHER ROUTES IN THE STATE HIGHWAY SYSTEM.

2. MAJOR ARTERIAL STREETS AND INTERSECTION IMPROVEMENTS IDENTIFIED IN THE PLAN, INCLUDING CAPITAL EXPENSE AND IMPLEMENTATION STUDIES.

Sec. 4. Section 28-6305, Arizona Revised Statutes, is amended to read:

28-6305. Construction account; expenditures; construction contracts

A. Except as provided in subsection B of this section, monies in the construction account of the regional area road fund shall be spent, pledged or accumulated for the purposes provided in section 28-6304, subsection C, paragraphs 4 and 5, including payment of interest on and repayment of bonds and obligations issued pursuant to chapter 21 of this title if the proceeds of the bonds or obligations are used for the purposes provided in section 28-6304, subsection C, paragraphs 4 and 5.

B. Of the monies deposited in the construction account of the regional area road fund under section 28-6303, the state treasurer shall:

1. In each fiscal year, divide and equally distribute ~~five million dollars~~ \$2,500,000 to:-

~~(a) The public transportation fund established in that county under section 48-5103.~~

~~(b)~~ the regional planning agency in that county for planning and ~~administration of~~ ADMINISTERING the regional transportation plan approved pursuant to section 28-6308. The state treasurer shall distribute monies under this subdivision through the department on or before June 30 of each year.

2. Beginning with fiscal year 1987-1988, adjust the monies distributed under paragraph 1 OF THIS SUBSECTION by the annual percentage change for the previous calendar year in the GDP price deflator as defined in section 41-563.

C. The monies distributed under subsection B of this section shall only be spent for planning and administering the regional transportation plan approved pursuant to section 28-6308 and the costs incurred by the auditor general relating to performance audits under section 28-6313. Before the beginning of each fiscal year, the respective governing bodies of the members of the regional planning agency and the board of directors of the regional public transportation authority shall explicitly identify and approve in the annual budgets the monies to be spent under subsection B of this section for the purposes allowed under this subsection. These

expenditures are subject to the annual audit of the governing bodies' financial transactions.

D. The director may enter into construction contracts or contracts incidental to construction contracts payable from monies in either the bond proceeds account or the construction account or both the bond proceeds and construction accounts.

Sec. 5. Section 28-6306, Arizona Revised Statutes, is amended to read:

28-6306. Account expenditures; elections

~~A. Except as provided in subsection B,~~ Monies from any account in the regional area road fund **OR PUBLIC TRANSPORTATION FUND** shall not be spent to promote or advocate a position, alternative or outcome of an election, to influence public opinion, **TO CONDUCT POLLING** or to pay or contract for consultants or advisors to influence public opinion **OR TO CONDUCT POLLING** with respect to an election regarding taxes or other sources of revenue for the fund or regarding the regional transportation plan.

~~B. Monies from any account in the regional area road fund may be spent:~~

~~1. As authorized by this article to determine public opinion before the election is called.~~

~~2. For costs specifically incurred with respect to a ballot issue relating to a county transportation excise tax in a county with a population of one million two hundred thousand or more persons.~~

Sec. 6. Section 28-6308, Arizona Revised Statutes, is amended to read:

28-6308. Regional planning agency transportation policy committee; regional transportation plan; plan review process

A. The regional planning agency in the county shall establish a transportation policy committee consisting of ~~twenty-three~~ **THE FOLLOWING** members ~~as follows:~~

1. ~~Seventeen~~ **ELEVEN** members of the regional planning agency, including ~~one member~~ **BOTH MEMBERS** of the state transportation board who ~~represents~~ **REPRESENT** the county, one member of the county board of supervisors and one member ~~representing~~ **WHO REPRESENTS** Indian communities in the county.

2. Six members who represent regionwide business interests, ~~one of whom must represent transit interests, one of whom must represent~~ **INCLUDING IN THE AREAS OF** freight, ~~interests~~ **REAL ESTATE, HOMEBUILDING, TRUCKING** and ~~one of whom must represent~~ construction interests. The president of the senate and the speaker of the house of representatives shall each appoint three members to the committee pursuant to this paragraph **AT LEAST TWO OF WHOM SHALL BE CURRENTLY ELECTED LEGISLATORS REPRESENTING DISTRICTS IN THE COUNTY IN WHOLE OR PART. TWO MEMBERS SHALL**

BE FROM ORGANIZATIONS OR ASSOCIATIONS WHOSE PURPOSE IS TO REPRESENT TAXPAYER INTERESTS. Members who are appointed pursuant to this paragraph serve ~~six-year~~ TWO-YEAR terms. ~~The chairperson of the regional planning agency may submit names to the president of the senate and the speaker of the house of representatives for consideration for appointment to the transportation policy committee.~~

B. Through the regional planning agency, the transportation policy committee shall:

~~2.~~ 1. Develop the plan in cooperation with the regional public transportation authority in the county and the department ~~of transportation~~ and in consultation with the county board of supervisors, Indian communities and cities and towns in the county.

~~1.~~ 2. By a majority vote of the members, recommend approval, DISAPPROVAL OR MODIFICATION of a twenty-year comprehensive, performance-based, ~~multimodal~~ and coordinated regional transportation plan in the county, including transportation corridors by priority and a schedule indicating the dates that construction will commence for projects contained in the plan.

3. DEVELOP THE PLAN USING THE PERFORMANCE FACTORS AND WEIGHTS PRESCRIBED IN SECTION 28-505 AND SUBMIT THE PLAN FOR DEPARTMENT REVIEW TO DETERMINE COMPLIANCE WITH SECTION 28-505.

~~3.~~ 4. Submit the plan for review by the regional public transportation authority in the county, the state board of transportation, the county board of supervisors, Indian communities and cities and towns in the county at the alternatives stage of the plan and the final draft stage of the plan. After reviewing the plan, the regional public transportation authority in the county, the county board of supervisors and the state board of transportation, by majority vote of the members of each entity within thirty days after receiving the plan, shall submit a written recommendation to the transportation policy committee that the plan be approved, modified or disapproved. Within thirty days after receiving the plan, Indian communities and cities and towns in the county may submit a written recommendation to the transportation policy committee that the plan be approved, modified or disapproved.

~~4.~~ 5. Consider plan modifications proposed by any of the entities as prescribed in paragraph ~~3~~ 4 of this subsection.

~~5.~~ 6. By majority vote, approve, disapprove or further modify each proposed plan modification.

~~6.~~ 7. Provide a written response to the regional public transportation authority, the state board of transportation, the county board of supervisors and the entity that submitted the proposed modification within thirty days after the vote on the proposed modification explaining the affirmation, rejection or further modification of each proposed modification.

~~7.~~ 8. Recommend the plan to the regional planning agency for approval for an air quality conformity analysis.

C. The regional transportation plan:

1. Shall include the following transportation mode classifications with a revenue allocation to each classification consistent with section 42-6105, subsection D:

(a) Freeways and other routes in the state highway system.

(b) Major arterial streets and intersection improvements.

(c) Public transportation systems.

2. Shall provide a suggested construction schedule for the transportation projects contained in the plan.

3. May be annually updated to introduce new controlled access highways, related grade separations and transportation projects or to modify the existing plan.

4. Shall be developed to meet federal air quality requirements established for the region in which it is located.

D. Transportation excise tax revenues that are distributed pursuant to section 42-6105, subsection D shall not be redistributed or used for other transportation modes. Except as provided by section 28-6353, subsections D, E and F, transportation excise tax revenues that are dedicated in the plan to a specific project or transportation system may only be redistributed to or otherwise used for another project within the same transportation mode if approved by a majority vote of the transportation policy committee.

Sec. 7. Section 28-6313, Arizona Revised Statutes, is amended to read:

28-6313. Performance audits of proposed transportation projects and systems

A. Beginning in 2010 and every fifth year thereafter, the auditor general shall ~~contract with a nationally recognized independent auditor with expertise in evaluating multimodal transportation systems and in regional transportation planning to~~ conduct a performance audit, as defined in section 41-1278, of the regional transportation plan and projects scheduled for funding during the next five years.

B. With respect to light rail systems, the audit shall consider the criteria used by the federal transit administration pursuant to 49 United States Code section 5309(e)(1)(B) and the interrelationship among the criteria to provide federal funding for light rail systems. For light rail systems, the audit shall also consider:

1. Service levels.

2. Capital costs.

3. Operation and maintenance costs.

4. Transit ridership.

5. Farebox revenues.



1 C. The audit shall:

2 1. Examine the regional transportation plan and projects scheduled  
3 for funding within each transportation mode based on the performance  
4 factors established in section 28-505, subsection A, in the context of the  
5 transportation system.

6 2. Review past expenditures of the regional transportation plan and  
7 examine the performance of the system in relieving congestion and  
8 improving mobility.

9 3. Make recommendations regarding whether further implementation of  
10 a project or transportation system is warranted, warranted with  
11 modifications or not warranted.

12 D. The auditor general ~~or the auditors contracted to conduct the~~  
13 ~~audit~~ shall periodically update the transportation policy committee  
14 regarding the progress of the audit.

15 E. Within forty-five days after the release of the audit, the  
16 regional public transportation authority, the state transportation board  
17 and the county board of supervisors, by a majority vote of each entity,  
18 shall submit written recommendations to the transportation policy  
19 committee that the findings are agreed to or disagreed with and the  
20 recommendations should be implemented, be implemented with modification or  
21 not be implemented.

22 F. Within forty-five days after the audit's release, the regional  
23 planning agency shall hold a public hearing on the audit findings and  
24 recommendations.

25 G. The auditor general shall distribute copies of the audit to:

26 1. The regional planning agency.

27 2. The transportation policy committee.

28 3. The regional public transportation authority in the county.

29 4. The county board of supervisors.

30 5. The state transportation board.

31 6. The governor, secretary of state, president of the senate and  
32 speaker of the house of representatives.

33 ~~7. The Arizona state library, archives and public records.~~

34 ~~8.~~ 7. Any other person who requests a copy pursuant to title 39,  
35 chapter 1, article 2.

36 H. The state transportation board, regional planning agency,  
37 regional public transportation authority and county board of supervisors  
38 shall cooperate with and submit to the auditor general ~~and the auditors~~  
39 ~~contracted to conduct the audit~~ information necessary to conduct the  
40 audits under this section.

41 I. The cost incurred by the auditor general ~~in contracting with~~  
42 ~~independent auditors~~ for conducting performance audits under subsection A  
43 of this section shall be paid from revenues of the county transportation  
44 excise tax under ~~section~~ SECTIONS 42-6105 AND 42-6105.01. When due, the  
45 payments have priority over any other distribution authorized by section

42-6105 OR 42-6105.01. The auditor general shall deposit the payments in the audit services revolving fund established by section 41-1279.06.

Sec. 8. Title 28, chapter 17, article 1, Arizona Revised Statutes, is amended by adding section 28-6314, to read:

28-6314. Transportation excise tax funded contracts; requirements

NOTWITHSTANDING ANY OTHER LAW, A CONTRACT THAT IS FUNDED BY A COUNTY TRANSPORTATION EXCISE TAX PURSUANT TO SECTION 42-6105.01:

1. IS SUBJECT TO SECTION 41-2533 RELATING TO COMPETITIVE SEALED BIDDING.

2. MUST BE SUBMITTED TO THE JOINT LEGISLATIVE BUDGET COMMITTEE FOR REVIEW BEFORE THE EXECUTION OF THE CONTRACT IF THE CONTRACT EXCEEDS \$50,000,000.

Sec. 9. Section 28-6352, Arizona Revised Statutes, is amended to read:

28-6352. Regional highway and street system; budget process

A. The department shall adopt a budget process that ensures the estimated cost of the transportation mode classification described in section 28-6308, subsection C, paragraph 1, subdivision (a) does not exceed the total amount of revenues estimated to be available for that mode classification.

B. The regional planning agency shall adopt a budget process that ensures the estimated cost of the transportation mode classification described in section 28-6308, subsection C, paragraph 1, subdivision (b) does not exceed the total amount of revenues estimated to be available for that mode classification.

C. THE REGIONAL PLANNING AGENCY SHALL ADOPT A BUDGET PROCESS THAT ENSURES THE ESTIMATED COST OF THE TRANSPORTATION MODE CLASSIFICATION DESCRIBED IN SECTION 28-6308, SUBSECTION C, PARAGRAPH 1, SUBDIVISION (c) DOES NOT EXCEED THE TOTAL AMOUNT OF REVENUES ESTIMATED TO BE AVAILABLE FOR THAT MODE CLASSIFICATION.

Sec. 10. Section 28-6713, Arizona Revised Statutes, is amended to read:

28-6713. Bids for construction, reconstruction, equipment or supplies; procedure; bond; exceptions

A. Except as provided in subsection G of this section AND SECTION 28-6314, in a county with a population of two hundred fifty thousand persons or more as determined by the most recent United States decennial census or the most recent special census as provided in section 28-6532, bids for all items of construction or reconstruction involving an expenditure equal to or greater than the amount determined pursuant to subsection B of this section, all purchases or other acquisition of equipment involving an expenditure of more than ~~five thousand dollars~~ \$5,000 and all purchases of supplies and materials involving an expenditure of ~~two thousand five hundred dollars~~ \$2,500 or more shall be

called for by advertising in a newspaper of general circulation in the county for two consecutive publications if it is a weekly newspaper, or for two publications of at least six but not more than ten days apart if it is a daily newspaper. The advertisement shall state specifically the character of the work to be done and the kind and quality of materials or supplies to be furnished.

B. Bids shall be called pursuant to subsection A of this section for all items of construction or reconstruction involving an expenditure of:

1. In fiscal year 1985-1986, ~~thirty-five thousand dollars~~ \$35,000.
2. In fiscal year 1986-1987 and each fiscal year thereafter, the amount provided in paragraph 1 of this subsection adjusted by the annual percentage change in the GDP price deflator as defined in section 41-563.

C. If the board of supervisors receives a satisfactory bid, it shall contract with the lowest responsible bidder after the contractor or supplier gives any bond required by title 34, chapter 2, article 2, except that in counties with a population of more than one million persons according to the most recent United States decennial census, in determining the lowest responsible bidder under this section, the board may consider, for ~~no~~ NOT more than five projects THAT DO NOT RECEIVE MONIES FROM A COUNTY TRANSPORTATION EXCISE TAX THAT IS COLLECTED PURSUANT TO SECTION 42-6105.01, the time of completion proposed by the bidder, the value over time of completed services and facilities and the value over time of interrupted services, if the board determines that this procedure will serve the public interest by providing a substantial fiscal benefit or that the use of the traditional awarding of contracts is not practicable for meeting desired construction standards or delivery schedules and if the formula for considering the time of completion is specifically stated in the bidding information. The board may reject any or all bids and readvertise.

D. The board of supervisors, a member of the board of supervisors or any other official or agent of a county affected by this section shall not segregate or divide into separate units a contiguous or continuous portion of highway construction or reconstruction or divide into separate portions an item of equipment or generally recognized unit of supplies or material to avoid the restrictions imposed by subsection A of this section.

E. The board of supervisors, a member of the board of supervisors or any other official or agent of a county affected by this section shall make every effort to combine the following:

1. Separate portions of highway construction or reconstruction projects.
2. Items of equipment, supplies and materials.

F. After a contract has been awarded, the board of supervisors' authorized representative may authorize change orders to the contract if necessary pursuant to guidelines set by the board of supervisors. This authority does not ~~permit~~ ALLOW the board of supervisors' authorized representative to act independently to award new contracts.

G. A building, structure, addition or alteration may be constructed without complying with the bidding requirements of this section if the construction, including construction of buildings or structures on public or private property, is required as a condition of development of private property and is authorized by section 9-463.01 or 11-822. For the purposes of this subsection, building does not include any police, fire, school, library or other public building.

H. Subsections A, B and C of this section do not apply to procurement of construction-manager-at-risk, design-build and job-order-contracting construction services pursuant to title 34, chapter 6.

Sec. 11. Section 28-7362, Arizona Revised Statutes, is amended to read:

28-7362. Emergency construction

A. Notwithstanding any other law AND EXCEPT AS PROVIDED IN SECTION 28-6314, if the director determines that an emergency exists, the director may award a contract for the reconstruction of transportation facilities necessary to preserve the health, welfare or safety of persons or property.

B. The director shall award a contract pursuant to this section with such competition as is practicable under the circumstances.

C. An award under this section shall be limited to the reconstruction necessary to satisfy the emergency need.

D. The director shall include the following in the contract file and in the director's office:

1. A written report describing the basis for the determination that an emergency existed.

2. The process by which the contractor was selected.

E. As soon as practicable, the director shall make a written report to the governor and to the board describing any awards made pursuant to this section. The report shall include:

1. The written report of the basis for the director's determination that an emergency existed.

2. A description of the reconstruction work needed, the process of selection of the contractor and the progress of the work under the emergency award.

1 F. At the conclusion of the work, the director shall make a final  
2 report to the board and the governor describing the project and the  
3 performance of the work.

4 Sec. 12. Section 28-7363, Arizona Revised Statutes, is amended to  
5 read:

6 28-7363. Design-build method of project delivery

7 A. Notwithstanding any other law AND EXCEPT AS PROVIDED IN SECTION  
8 28-6314, the department may use the design-build method of project  
9 delivery on a project if the department makes a determination in writing  
10 that it is appropriate and in the best interests of the department to use  
11 the design-build method of project delivery for that project, except that:

12 1. The department shall not enter into a contract to operate any  
13 structure, facility or other item pursuant to this article.

14 2. Each design-build project shall be a specific single project.

15 3. The department shall not commence any design-build project after  
16 December 31, 2025. For the purposes of this paragraph, a project is  
17 commenced on the date the department solicits the contract for the  
18 project. If the department solicits a design-build contract on or before  
19 December 31, 2025, the contract may be executed and services and  
20 construction under the contract may be rendered in whole or in part after  
21 December 31, 2025.

22 B. The estimated cost of the project shall not include the cost to  
23 procure any right-of-way or other cost of condemnation. The cost to  
24 procure any right-of-way or other cost of condemnation remains at all  
25 times the responsibility of the department. The department shall obtain  
26 all necessary rights-of-way.

27 C. The department is responsible for ~~preparation~~ PREPARING and  
28 ~~acquisition of~~ ACQUIRING all environmental documents, including the scope  
29 of any remediation and required clearances.

30 D. If construction of a design-build project involves railroad  
31 facilities, the railroad shall approve the use of the design-build  
32 delivery method before the department awards the design-build contract.

33 E. To ensure fair, uniform, clear and effective procedures that  
34 will deliver a quality project on time and within budget, the director, in  
35 conjunction with the appropriate and affected professionals and  
36 contractors, may adopt procedures for procuring a project using the  
37 design-build method of project delivery.

38 F. The provisions of sections 28-6923 and 28-6924 relating to bid,  
39 performance and payment bonds and to change orders, progress payments,  
40 contract retentions, definitions and authority to award contracts apply to  
41 department design-build projects for transportation facilities pursuant to  
42 this article.

1       Sec. 13. Title 42, chapter 6, article 3, Arizona Revised Statutes,  
2 is amended by adding section 42-6105.01, to read:

3       42-6105.01. County transportation excise tax; counties with  
4       population of three million or more persons

5       A. IF APPROVED BY THE QUALIFIED ELECTORS VOTING AT A COUNTYWIDE  
6 ELECTION, A COUNTY WITH A POPULATION OF THREE MILLION OR MORE PERSONS  
7 SHALL LEVY AND THE DEPARTMENT SHALL COLLECT A TAX AS PROVIDED BY THIS  
8 SECTION, IN ADDITION TO ALL OTHER TAXES.

9       B. THE TAX SHALL BE LEVIED AND COLLECTED:

10       1. AT A RATE OF NOT MORE THAN TEN PERCENT OF THE TRANSACTION  
11 PRIVILEGE TAX RATE PRESCRIBED BY SECTION 42-5010, SUBSECTION A THAT  
12 APPLIES, AS OF JANUARY 1, 1990, TO EACH PERSON ENGAGING OR CONTINUING IN  
13 THE COUNTY IN A BUSINESS TAXED UNDER CHAPTER 5, ARTICLE 1 OF THIS TITLE.

14       2. AT A RATE OF NOT MORE THAN TEN PERCENT OF THE RATE PRESCRIBED BY  
15 SECTION 42-5352, SUBSECTION A.

16       3. ON THE USE OR CONSUMPTION OF ELECTRICITY OR NATURAL GAS BY  
17 RETAIL ELECTRIC OR NATURAL GAS CUSTOMERS IN THE COUNTY WHO ARE SUBJECT TO  
18 USE TAX UNDER SECTION 42-5155, AT A RATE EQUAL TO THE TRANSACTION  
19 PRIVILEGE TAX RATE UNDER PARAGRAPH 1 OF THIS SUBSECTION THAT APPLIES TO  
20 PERSONS ENGAGING OR CONTINUING IN THE COUNTY IN THE UTILITIES TRANSACTION  
21 PRIVILEGE TAX CLASSIFICATION.

22       C. THE TAX LEVIED UNDER THIS SECTION SHALL BE IN EFFECT FOR A TERM  
23 OF TWENTY YEARS.

24       D. THE NET REVENUES COLLECTED UNDER THIS SECTION SHALL BE  
25 DISTRIBUTED AND DEPOSITED AS FOLLOWS FOR USE CONSISTENT WITH THE REGIONAL  
26 TRANSPORTATION PLAN ADOPTED UNDER TITLE 28, CHAPTER 17, ARTICLE 1:

27       1. EIGHTY PERCENT TO THE REGIONAL AREA ROAD FUND PURSUANT TO  
28 SECTION 28-6303 FOR FREEWAYS AND OTHER ROUTES IN THE STATE HIGHWAY SYSTEM,  
29 INCLUDING CAPITAL EXPENSES AND MAINTENANCE.

30       2. FIFTEEN PERCENT TO THE REGIONAL AREA ROAD FUND PURSUANT TO  
31 SECTION 28-6303 FOR MAJOR ARTERIAL STREETS AND INTERSECTION IMPROVEMENTS,  
32 INCLUDING CAPITAL EXPENSES.

33       3. FIVE PERCENT TO THE REGIONAL AREA ROAD FUND FOR DIAL-A-RIDE AND  
34 THE EXTENSION OR ADDITION OF BUS LINES AND BUS RAPID TRANSIT.

35       E. MONIES DISTRIBUTED PURSUANT TO SUBSECTION D OF THIS SECTION  
36 SHALL NOT BE SPENT ON COMMUTER RAIL, LIGHT RAIL, STREET CARS OR TROLRIES.

37       Sec. 14. Section 48-5102, Arizona Revised Statutes, is amended to  
38 read:

39       48-5102. Regional public transportation authority in counties  
40       with population of three million or more persons;  
41       establishment

42       ~~A. Beginning January 1, 1986, a regional public transportation~~  
43 ~~authority is established in a county that has a population of one million~~  
44 ~~two hundred thousand or more persons and that approves a transportation~~  
45 ~~excise tax.~~

1           A. BEGINNING JANUARY 1, 2026, A REGIONAL PUBLIC TRANSPORTATION  
2 AUTHORITY IS ESTABLISHED IN A COUNTY THAT HAS A POPULATION OF THREE  
3 MILLION OR MORE PERSONS AND THAT APPROVES A COUNTY TRANSPORTATION EXCISE  
4 TAX.

5           B. An authority is a tax levying public improvement district for  
6 all purposes of article XIII, section 7, Constitution of Arizona, and has  
7 the powers, privileges and immunities specifically granted by law. The  
8 authority's property, bonds, debts and other obligations and interest on  
9 and transfer of its bonds and obligations are free from taxation.

10          C. The authority may operate both within and outside the corporate  
11 limits of the member municipalities.

12          Sec. 15. Section 48-5103, Arizona Revised Statutes, is amended to  
13 read:

14           48-5103. Public transportation fund

15          A. A public transportation fund is established for the authority.  
16 The fund consists of:

17           1. Monies appropriated by each municipality that is a member of the  
18 authority or the county, if it elected to enter into the authority. Each  
19 member municipality and member county shall appropriate monies to the  
20 public transportation fund in an amount determined by the board.

21           2. Monies appropriated by a county that has not elected to enter  
22 into the authority in an amount determined by the county board of  
23 supervisors.

24           3. Transportation excise tax revenues that are allocated to the  
25 fund pursuant to section 42-6105, SUBSECTION D, PARAGRAPH 3 AND SECTION  
26 42-6105.01. The board shall separately account for monies from  
27 transportation excise tax revenues allocated pursuant to section 42-6105,  
28 subsection D, paragraph 3 AND ALSO SEPARATELY ACCOUNT FOR MONIES for:

29           (a) A light rail public transit system.

30           (b) Capital costs for other public transportation.

31           (c) Operation and maintenance costs for other public  
32 transportation.

33           4. Monies distributed under title 28, chapter 17, article 1.

34           5. Grants, gifts or donations from public or private sources.

35           6. Monies granted by the federal government or appropriated by the  
36 legislature.

37           7. Fares or other revenues collected in operating a public  
38 transportation system.

39          B. On behalf of the authority, the fiscal agent shall administer  
40 monies paid into the public transportation fund. Monies in the fund may  
41 be spent pursuant to or to implement the public transportation element of  
42 the regional transportation plan developed and approved by the regional  
43 planning agency, including reimbursement for utility relocation costs as  
44 prescribed in section 48-5107, adopted pursuant to section 48-5121 and for

1 projects identified in the regional transportation plan adopted by the  
2 regional planning agency pursuant to section 28-6308.

3 C. Monies in the fund shall not be spent ON PUBLIC POLLING,  
4 ELECTION EXPENSES OR to promote or advocate a position, alternative or  
5 outcome of an election, to influence public opinion or to pay or contract  
6 for consultants or advisors to influence public opinion with respect to an  
7 election regarding taxes or other sources of revenue for the fund or  
8 regarding the regional transportation plan.

9 Sec. 16. Section 48-5121, Arizona Revised Statutes, is amended to  
10 read:

11 48-5121. Public transportation element of the regional  
12 transportation plan

13 A. In counties with a population of ~~one~~ THREE million ~~two hundred~~  
14 ~~thousand~~ persons or more, the regional planning agency shall develop, in  
15 cooperation with state and local public transportation authorities and  
16 operators, the public transportation element of the regional  
17 transportation plan that is coordinated with the regional transportation  
18 plan adopted pursuant to section 28-6308.

19 B. Among other things, the public transportation element of the  
20 regional transportation plan shall:

21 1. Define and identify regional public transportation corridors  
22 USING THE PERFORMANCE FACTORS PRESCRIBED BY SECTION 28-505.

23 2. Define the public transportation problems, goals and needs for  
24 each corridor USING THE INFORMATION RECEIVED FROM SURVEYS PURSUANT TO  
25 SECTION 28-9123.

26 ~~3. Determine environmental, economic, energy and social policies to~~  
27 ~~guide public transportation investment decisions.~~

28 ~~4.~~ 3. Order the priority of regional public transportation  
29 corridors for development.

30 ~~5. Determine the mix of alternative public transportation modes~~  
31 ~~appropriate for development in light of the public transportation goals~~  
32 ~~and needs for each corridor.~~

33 ~~6.~~ 4. ~~Determine performance criteria and~~ DEFINE THE costs for  
34 public transportation systems.

35 5. IDENTIFY AND INCORPORATE INNOVATIONS IN THE DELIVERY OF PUBLIC  
36 TRANSPORTATION, INCLUDING OPPORTUNITIES FOR PRIVATIZATION.

37 C. The public transportation element of the regional transportation  
38 plan shall include, in addition to the appropriate items prescribed in  
39 subsection B of this section, the following items presented on an  
40 individual fiscal year basis:

41 1. The capital and operating costs of the planned regional public  
42 transportation system.

43 2. The revenue needed by source, according to section 48-5103, to  
44 fund the transportation element of the regional transportation plan.



D. If the plan includes a rail component and if the rail operator adopts estimates of capital and maintenance and operation costs of the rail system, each member municipality in which the rail system is constructed shall pay to the public transportation fund amounts by which the actual capital, maintenance and operation costs exceed the estimated costs by more than fifteen ~~per cent~~ PERCENT, computed in constant dollars. The excess costs shall be allocated among the affected member municipalities according to the proportion of the rail system facilities that are located in each municipality. The affected member municipalities shall:

1. Pay the monies from their respective general funds to the public transportation fund in the fiscal year following the fiscal year in which the excess costs were incurred.

2. Not pay to the public transportation fund under this subsection monies that it received from any source pursuant to title 28.

3. Not reduce its support of transportation projects funded by any source pursuant to title 28 in order to make payments under this subsection.

E. The board may recommend modifications to the public transportation element of the regional transportation plan to reflect changes in population density or technological advances in the approved public transportation modes. A majority of the members of the board voting at a public hearing called for that purpose must approve the recommended modifications.

Sec. 17. Election on transportation excise tax

A. Before November 5, 2024, the board of supervisors of any county with a population of three million or more persons shall call a countywide election for the extension and levy of a county transportation excise tax as provided by section 42-6105.01, Arizona Revised Statutes, as added by this act, and on November 5, 2024, the board of supervisors shall conduct the election.

B. In addition to any other requirements prescribed by law, the board of supervisors shall prepare and print an 8½" x 11" publicity pamphlet concerning the ballot question and mail one copy of the pamphlet to each household containing a registered voter in the county. The mailings may be made over a period of days but shall be mailed for delivery before the earliest date registered voters shall receive early ballots for the election. The publicity pamphlet shall contain:

1. A summary of the principal provisions of the issue presented to the voters, including the rate of the transportation excise tax, the number of years the tax will be in effect and the projected annual and cumulative amount of revenues to be raised.

2. A statement describing the purposes for which the transportation excise tax monies may be spent as provided by law, including:

1 (a) A summary of the regional strategic transportation  
2 infrastructure investment plan adopted pursuant to section 28-6308,  
3 Arizona Revised Statutes, as amended by this act.

4 (b) A map of proposed routes and transportation corridors of all  
5 major transportation projects.

6 (c) The estimated amount of transportation excise tax revenues,  
7 together with other identified revenues, dedicated for each transportation  
8 mode.

9 (d) The Maricopa county elections department website address for  
10 additional information on the regional strategic transportation  
11 infrastructure investment plan.

12 C. On or before June 15, 2024, a person may file with the county  
13 elections director an argument, not more than three hundred words in  
14 length, advocating or opposing the ballot measure. The person who files  
15 the argument shall also pay to the elections director a publication fee  
16 prescribed by the board of supervisors. The publication fee may not  
17 exceed \$75 per ballot argument. If the argument is sponsored by one or  
18 more individuals, the argument shall be signed by each sponsoring  
19 individual. If the argument is sponsored by one or more organizations,  
20 the argument shall be signed by two executive officers of each  
21 organization. If the argument is sponsored by one or more political  
22 committees, the argument shall be signed by each committee's chairperson  
23 or treasurer. Payment of the fee required by this subsection, or  
24 reimbursement of the payor, constitutes sponsorship of the argument. The  
25 names of persons who have signed arguments and the names of sponsoring  
26 organizations shall appear with the argument in the pamphlet. The person  
27 or persons signing the argument shall also give their residence or post  
28 office box address and a telephone number, which may not appear in the  
29 pamphlet.

30 D. In addition to any other ballot requirements prescribed by law,  
31 the elections director shall cause the following to be printed on the  
32 official ballot:

33 1. The designation of the measure as follows:

34 (a) "Relating to county transportation excise (sales) taxes".

35 (b) "Maricopa county regional public transportation funding plan".

36 2. A description of the ballot measure, which shall be prepared by  
37 legislative council at the same time and in the same manner as outlined  
38 for a ballot analysis in section 19-124 subsection C, Arizona Revised  
39 Statutes. In addition, legislative council shall prepare the question  
40 that shall appear on the ballot before voters and that explains the effect  
41 that both a "YES" vote and a "NO" vote would have.

42 E. Except as otherwise provided by this section, the election under  
43 this section shall be conducted as nearly as practicable in the manner  
44 prescribed for general elections in title 16, Arizona Revised Statutes.

1 F. This section does not constitute a submission of any provision  
2 of law to the people for approval under the power of the referendum.

3 G. Except as specifically provided in this section, the general  
4 laws relating to elections apply to the election prescribed by this  
5 section.

6 Sec. 18. Regional public transportation authority

7 This act does not invalidate an action by a regional public  
8 transportation authority formed pursuant to law before the effective date  
9 of this act.

10 Sec. 19. Retention of members

11 Notwithstanding section 28-6308, Arizona Revised Statutes, as  
12 amended by this act, all persons serving as members of the regional  
13 planning agency transportation policy committee on the effective date of  
14 this act may continue to serve until the expiration of their normal  
15 terms. All subsequent appointments shall be prescribed by statute.